GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

DEPARTMENT OF TRIBAL WELFARE - Revision Petition is filed by Sri. Datla Venkatapathi Raju, S/o Late Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal, East Godavari District against the orders of the Agent to Government and District Collector, East Godavari District in CMA No.19/1991, Dated.13.11.1991 of lands in Sy.Nos.41/1, 41/2 and 44/1 measuring an extent of Ac.13.24 Cts of Rajavommangi Village and Mandal, Alluri Sitharamaraju District erstwhile East Godavari District - Allowed - Orders - Passed.

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DEPARTMENT OF TRIBAL WELFARE

G.O.Ms.No.15 Dated:15.03.2024.

Read the following:-

1. Revision Petition dt.13.11.1991 filed by Sri. Datla Venkatapathi Raju, S/o Late Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal, East Godavari District.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No.19/1991, Dt.27.10.2023.

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ORDER:

In the reference 1st read above, Sri. Datla Venkatapathi Raju, S/o Late Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal, East Godavari District against the orders of the Agent to Government and District Collector, East Godavari District in CMA No.19/1991, Dated.13.11.1991 of lands in Sy.Nos.41/1, 41/2 and 44/1 measuring an extent of Ac.13.24 Cts of Rajavommangi Village and Mandal, Alluri Sitharamaraju District erstwhile East Godavari District.

2. The Brief history of the subject case:

I. The Special Deputy Tahsildar (TW), Rajavommangi filed a complaint Under Section 3 of the APSA Land Transfer Regulation 1/59 as amended by Land Transfer Regulation 1/70 on behalf of the Petitioners therein for restoration of the Petition schedule land in RS.Nos.41/1, 41/2 and 44/1 measuring an extent of Ac.13.24 Cts of Rajavommangi Village and Mandal to the petitioners from the respondents. The petition was numbered as LTRP No.78/1990.

II. After due enquiry, by following due process, the then Deputy Collector, Tribal Welfare, Rampachodavaram, has ordered for decree ejectment of the respondent therein from the Petition schedule land and it to be restored to the petitioners therein, who are the legal heirs of the registered settlement pattadars vide LTRP No.78/1990, Dt:21.02.1991 and the case is allowed.

III. The Agent to Government and Collector, East Godavari District, Kakinada while allowing the appeal, made out the following issues from out of the pleadings of both the parties and based on the material placed before the court and the records available in the case.

1) The appeal schedule lands are situated in the scheduled area of Rajavommangi Village & Mandal of Alluri Seetharama Raju District, erstwhile East Godavari District.

2) As per settlement Register 1932-35 of Rajavommangi Village the RS.Nos.41/1, 41/2 and 44/1 measuring an extent of Ac.13.24 Cts were registered in the name of Kalimkota Kittayya (who is the grandfather of the 2nd respondent herein).

3) The Appellant's father Sri Datla Venkatapathi Raju S/o Nagaraju was purchased the petition schedule lands from Cheedipalli Nukaraju and others vide registered document Dt:08.09.1940. This transaction is covered by the permission granted by the Revenue Divisional Officer, Peddapuram vide Ref. D.Dis.2031/40, Dt:11.05.1940.

4) As the matter stood thus, Sri Kalimkoti Sangaya and Kalimkoti Nukayya have filed a complaint against Sri Datla Venkatapathi Raju S/o Nagaraju before the Deputy Collector (TW) Rampachodavaram and requested to restore the Petition Schedule lands in their favour.

5) The then Deputy Collector, Rampachodavaram duly observed and consider the following points before issuing the orders.

A. The Petitioner Sri Kalimkoti Sangaya and Kalimkota Nukayya have filed complaint and submitted that, as per settlement Register the Petition Schedule lands were registered in the name of Kalimkota Kittayya and Bodayya who was the grandfather of respondents herein.

B. The Respondent father deposed that their father mortgaged the petition schedule land to the appellant's father for one year.

C. But, the appellant Sri. Datla Venkatapathi Raju S/o Nagaraju he deposed that the Petition schedule lands were purchased by his father Sri. Datla Venkatapathi Raju S/o Nagaraju from Cheedipalli Nukaraju 86 Others vide registered Document Dt:08.09.1940 with the permission from the Revenue Divisional Officer, Peddapuram vide F.Dis.2031/40, Dt:11.05.1940.

D. The respondent herein deposed that Cheedipalli Tuthayya has no relation with them or with the Petition schedule land. It is not clear how Cheedipalli Tuthayya came into possession of the Petition schedule land which was registered in the name of Kalimkota Kittayya and Bodayya.

E. Cheedipalli Tuthayya has no right over the plaint schedule land and the sale transaction entered by his sons has no legal sanctity. The actual sale of the lands was made by the sons of Cheedipalli Tuthayya namely Sri Nukaraju, Apparao, Venkata Ramaiah and Chinnaparaju to a non-tribal. The sale transaction, vide totally null & void as Cheedipalli Tuthayya has no title over the land.

F. The plaint schedule land stands registered in the name of Kittayya who is the grandfather of the respondent but, later it is in the possession of the Non-tribal appellant. Thus transfer of land has taken place without permission of the Agent or Assistant Agent from the tribal respondent grandfather to the appellant's father (Non-tribal) and thus it is void. U/s. 4(1) of Act of 1/17 read with Sec.3(1) of A.P. Land Transfer Regulation 59.

G. Moreover it is to be noted that the respondent is not doing self cultivation of the land and the cultivation is being done by some other on lease basis, as Para Sec.2(g) of A.P. Land Transfer Regulation 1959 wherein transfer means mortgage, lease, sale, gift, exchange or any other dealing with immovable property.

H. Previously a petition was filed against appellant in L.T.R.P.689/79, which was dismissed on the basis of Revenue Divisional Officer, Peddapuram permission.

I. Considering the above facts, the then Deputy Collector, Tribal Welfare, Rampachodavaram has observed the following facts passed order for decree ejectment of the respondent therein from the Petition schedule land and it to be restored to the petitioners therein, who are the legal heirs of the registered settlement pattadars vide LTRP No.81/1990, Dt:21.02.1991 and the case is allowed

3. Aggrieved with the above orders of the then Deputy Collector, Tribal Welfare, Rampachodavaram, Sri Datla Venkatapathi Raju S/o (late) Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal has filed an appeal before the Agent to Government and Collector, East Godavari District, Kakinada seeking an order or direction to Set-aside the orders of the Deputy Collector (TW), Rampachodavaram issued in the above LTRP case and request to issue an order not to evict the appellant from the Petition Schedule Land.

4. The Agent to Government and Collector, East Godavari District, Kakinada has conducted hearings and heard the arguments of both parties and come to the conclusion after perusing the record, and findings of lower court and observed that,

i. The appellant and his council have failed to explain and establish as to how Sri. Cheedipalli Tuthayya came in possession of the petition schedule lands.
ii. Moreover the permission sated to have been granted by the Assistant Agent vide order of the Revenue Divisional Officer, Peddapuram dt.30.06.1941 for sale of the petition scheduled land by son of Cheedipalli Tuthayya does not indicate the name of the purchaser. The circumstance under which the permission was given is also not indicated in the order.
iii. Consequently it is difficult to accept the legality of the sale from Smt. Pappula Rajamma to the father of the appellant. Hence the appeal petition was dismissed and the orders of the lower court are confirmed.

5. Aggrieved with the orders of the Agent to Government and Collector, East Godavari District, Kakinada in CMA No.25/1991 Dt:06.01.1992 the appellants Sri Datla Venkatapathi Raju, and 03 others of Laxmi Narasapuram Village, Anaparthi Mandal approached the Government of Andhra Pradesh in Social Welfare (LTR-2) Department by filing the present revision petition.

6. Aggrieved by the above orders, Sri. Datla Venkatapathi Raju, S/o Late Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal, erstwhile East Godavari District, Alluri Sitharamaraju District has filed a Revision Petition before the Government and requested it is liable for dismissal the orders of the Project Officer / Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No.19/1991, dt.13.11.1991 in the interest of the justice.

7. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Ramapachodavaram in his letter Dt.27.10.2023 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No.19/1991, dated.27.10.2023 and the remarks on the affidavit filed by the petitioner.

8. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 28.10.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted dated:27.10.2023 by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:

I. This Memorandum of Revision Petition is filed by Sri. Datla Venkatapathi Raju s/o (late) Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal against the orders of the Agent to Government and District Collector, East Godavari Districts Kakinada passed in CMA No. 19/1991, Dt:13.11.1991 under the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 while upholding the orders passed by the Deputy Collector (TW), Rampachodavaram in LTRP No. 78/1990, Dt:21.02.1991 in respect of lands in Sy. Nos. 41/1, 41/2, and 44/1 measuring an extent of Ac.13.24 cts of Rajavommangi Village and Mandal, presently in Alluri Sitharamaraju District, ordering for decree ejectment of the respondent therein from the Petition Scheduled land and restoration of the same to the Petitioners therein, who are the legal heirs of the registered settlement pattadars.

II. The matter came up for hearing finally before the Revision Authority on 28.10.2023 in the presence of Counsel for the Revision Petitioner and the Special Deputy Collector (TW) and Special Deputy Tahisldar (TW), ITDA, Rampachodavararm, the Additional Agent to Government furnished Para wise remarks in the matter. The Counsel for the Revision Petitioner also submitted written arguments. After perusing the material papers available in the file the following order is made.

III. The Revision Petitioner contends that the original petitioner Datla Venkatapathi raju died on dt:07.06.2007 leaving his wife the present Revision Petitioner Smt. Datla Padmavathi as a legal heir and that the permission of the Revenue Divisional Officer, Peddapuram was granted in F.2031/40 dt:01-05-1940 for the subject lands purchased on 08-09-1940 under registered sale deed No.819/1940 Dt:08-09-1940 by the father of the deceased petitioner Sri Datla Venkatapathi raju and that the lands have been in enjoyment of the Revision Petitioner here in and that earlier case in LTRP No. 689/79 filed dismissed in respect of the schedule lands and that it is not required to know how Cheedipalli Thutayya came into possession of subject lands when the Revenue Divisional Officer granted permission for the sale of subject lands and there is no prohibited transfer involved in the case under the Regulations 1 of 70 and requested to set aside the orders passed by the Agent to Government, the then East Godavari District in the C.M.A.No.23/1991 and pass such other or further orders in the matter.

IV. The contention of the Additional Agent to Government is that as per the settlement register of Rajavommangi Village and Mandal in Sy. Nos. 41/1, 41/2, and 44/1 measuring an extent of Ac.13.24 cts of Rajavommangi Village and Mandal were registered in the name of Kalimkota Kittayyagr and father of the second respondent herein and that said lands were purchased by Sri. Datla Venkatapathi raju S/o Nagaraju from the sons of Sri. Cheedipalli Tuthayya vide registered document on 08.09.1940 after obtaining permission from Revenue Divisional Officer Peddapuram on wide D.Dis.2031/1940 Dt:11.05.1940 and that it is not clear, how Sri. Cheedipalli Tuthayya came into possession of the Petition schedule lands which were registered in the name of Kolimkota Kittayya and Bodayya and said Tuthayya has no right over the Petition schedule land as such the sale transaction took place between sons of Cheedipalli Tuthayya and Sri. Datla Venkatapathi raju has no legal sanctity and that the order passed by the Agent to Government is in accordance with the provisions of Land Transfer Regulations and requested to dismiss the Revision Petition.

V. As seen from the impugned order of the Agent to Government/District Collector of the then East Godavari District who passed the impugned order observed that the "appellant is admittedly a non tribal and it is also true that the settlement register prepared in 1932-35 is in the name of Kalim Kota Kittayya father of the second respondent (Kalim Kota Nukayya) against the schedule properties and it is unclear how the schedule lands came into the possession of Sri Cheedipalii Tuthayya and more over the actual sale took place between the sons of said Tuthaya to anon tribal but permission was grant to

only to Sri. Cheedipalli Tuthayya as such the permission is not valid and proper not applicable to the sons of said Tuthayya and hence the sale is hit by the section 4(1) of the Act 1 of 1917 read with the section 3(1) of AP scheduled area Land Transfer Regulations 1959."

VI. As per the Para wise remarks submitted by the Additional Agent to Government, that the subject lands are not under cultivation of the purchasers of the lands and lands are under occupation of some other non tribal on lease basis which attract further to the provision of Set.2(g) of A.P. Land Transfer Regulation 1959 as amended by 1 of 70 wherein transfer means mortgage, lease, sale, gift, exchange or any other dealing with immovable property. The said transfer effected between non tribals after the commencement of Land Transfer Regulations 1 of 70 is null and void.

VII. The background of cases and rival submissions coupled with orders below and Para wise remarks give rise to following point for consideration.

VIII. The only question arises from the pleadings of the above is that whether the permission granted by the Revenue Divisional Officer, Peddapuram videD.Dis.2031/1940, Dt:11.05.1940 giving effect to the sale held between Sri. Datla Venkatapathi Raju and Sri Cheedipalli Nukaraju and others is valid under the provisions of AP Agency Area Land Transfer Act 1 of 1917 and subsequent Land Transfer Regulations 1 of 59 or not?

IX. Section 4 (1) of AP Agency Area Land Transfer Act 1917, affirms that "Notwithstanding any rule of law or enactment to the contrary, any transfer of immovable property situated within the Agency Tracts by a member of a hill tribe shall be absolutely null and void unless made in favour of another member of a hill tribe, or with the previous consent in writing of the Agent or of any other prescribed officer".

X. Agency Tracts Interest and Land Transfer Act, 1917 is an Act to regulate rate of interest and transfer of land in agency tracts. The prohibition imposed with certain restrictions on the- 'tribals' restraining them from transferring lands and properties to 'non-tribals' is understandable inasmuch as the objective is to ensure that the total extent of properties held by the tribals is not diminished.

XI. As seen from the documents that the permission which was granted to Sri. Cheedipalli Tuthayya by the Revenue Divisional Officer, Peddapuram under Act 1917 to sell the lands is valid under the provisions of AP Agency Area Land Transfer Act 1 of 1917 and subsequent Land Transfer Regulations 1 of 59.

XII. The order of the Revenue Divisional Officer, Peddapuram vide D.Dis2031/1940, dt:11-05-1940 under Section 4 of the Act 1 of 1917 clear revels that said persons had possession over the lands having right to sell the same and failure to produce the link document shall not be taken in to consideration that she failed to explain as to how she came into possession of the lands. It is evident that as per the permission that revenue authority concluded the title possession and enjoyment over the lands.

XIII. It is pertinent that earlier also cases was filed with regard to the self same lands in LTRP 689/1979 enquiry the same was dismissed which itself shows that the permission is valid as per Act.

XIV. The burden is on the nontribal purchaser who purchased the subject lands in the scheduled area from a tribal to prove that he purchased lands without any violation of section 4 of the Act 1 of 1917 and subsequent Land Transfer Regulations 1959.

XV. In view of the above, and facts and circumstances of the case, it must be held that valid permission of the Revenue Divisional Officer under Section 4 of the Act 1 of 1917 is valid and petitioner discharged his burden by producing relevant documents.

XVI. In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioners is hereby allowed. The impugned order Passed by the Agent to Government, East Godavari District in CMANo.19/1991, Dt:13-11-1991 upholding the orders passed by the Deputy Collector (TW), Rampachodavaram in LTRP No.78/1990, Dt:21.02.1991 in respect of lands in Sy. Nos.41/1, 41/2, and 44/1 measuring an extent of Ac.13.24 cts of Rajavommangi Village and Mandal, presently in Alluri Sitharamaraju District, ordering for decree ejectment of the non tribals respondents and restoration of the same to the Petitioners therein is hereby set-aside. As a sequel interim orders if any passed in the matter are hereby confirmed. Accordingly, the Revision Petition is here by allowed.

9. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition, filed by the Sri. Datla Venkatapathi Raju, S/o Late Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District is hereby allowed. Therefore the impugned order Dated:13.11.1991, passed by the Agent to Government in CMA No.19/1991, Dt.13.11.1991 upholding the orders passed by the Deputy Collector (TW), Rampachodavaram in LTRP No.78/1990, Dt:21.02.1991 in respect of lands in Sy. Nos.41/1, 41/2, and 44/1 measuring an extent of Ac.13.24 cts of Rajavommangi Village and Mandal, presently in Alluri Sitharamaraju District, ordering for decree ejectment of the non tribals respondents and restoration of the same to the Petitioners therein is hereby set-aside. As a sequel interim orders if any passed in the matter are hereby confirmed. Accordingly, the Revision Petition is here by allowed.

10. The Collector & District Magistrate, Alluri Sitha Rama Raju District Paderu, is requested to take necessary action in the matter.

11. This order shall be published in apegazette.cgg.gov.in

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Agent to Government cum Collector & District Magistrate,
Alluri Sitharama Raju District. 524341
The Additional Agent to Government cum Project officer,
ITDA, Rampachodavaram, Alluri Sitharama Raju District. 533288
The Special Deputy Collector (TW), Rampachodavaram,
Alluri Sitharama Raju District. 533288
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Cell No.9440041675.
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S/o Venkatapathi raju,
R/o Laxminarasapuram (V), Anparthi Mandal,
erstwhile East Godavari District
Alluri Sitharama Raju District. 533450
Sri Moganti Venkata Rao,
S/o Jogi Raju, R/o Kamarajupeta,
Gokavaram Mandal,
Alluri Sitharamaraju District. 533285

Copy to:
The OSD to Hon'ble Deputy Chief Minister (TW).

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The P.S. to Principal Secretary to Government (TW).
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SF/SCs.

// FORWARDED :: BY ORDER //

M. Srinivasa Rao
SECTION OFFICER